

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 884

Introduced by Assembly Member ~~Calderon~~ *Rendon*

February 26, 2015

An act to amend the heading of Article 10 (commencing with Section 270) of Chapter 2 of Part 1 of Division 1 of Title 1 of the Education Code, relating to educational equity; Section 9004 of, to add Section 9008.5 to, and to repeal Section 18650 of, the Elections Code, and to amend Section 6253.5 of the Government Code, relating to initiatives.

LEGISLATIVE COUNSEL'S DIGEST

AB 884, as amended, ~~Calderon~~ *Rendon*. ~~Educational equity: gender equity in education.~~ *Initiative petitions: public records.*

(1) *Under the California Public Records Act, statewide, county, city, and district initiative, referendum, and recall petitions, certain other petitions, and related memoranda are not public records and are not open to inspection, except as specified.*

This bill would create an exception to that exemption for petitions for statewide initiatives that the Attorney General has determined would likely result in a violation of an individual's constitutional rights, thereby making those petitions subject to inspection by the public. By requiring local agencies to produce additional records for inspection, this bill would impose a state-mandated local program.

(2) *Existing law requires the Attorney General to provide a ballot label and a ballot title for each measure to be submitted to the voters at a statewide election, and requires the Attorney General to prepare a summary of the chief purposes and points of each statewide ballot measure as part of the ballot title. Existing law provides for the format*

of an initiative measure petition and requires, prior to circulation, the placement of specified information across the top of the petition of a proposed initiative measure in 12-point or larger roman boldface type.

This bill would require the Attorney General, if he or she determines during preparation of the circulating title and summary for a statewide initiative measure that the measure would likely result in a violation of an individual's constitutional rights, to include a specified statement in the title and summary. The bill would require, for those measures that the Attorney General determines would likely result in a violation of an individual's constitutional rights, specified information on the petition to be in 16-point or larger roman boldface type, and would require a statement notifying the public that the petition, including information provided by signatories to the petition, is subject to the California Public Records Act.

(3) Existing law prohibits a person from knowingly or willfully permitting the list of signatures on an initiative, referendum, or recall petition to be used for any purpose other than qualification of the initiative or referendum measure or recall question for the ballot, and provides that violation of that provision is a misdemeanor.

This bill would repeal those provisions.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Sex Equity in Education Act, states the policy of the state that elementary and secondary school classes and courses, including nonacademic and elective classes and courses, be conducted without regard to the sex of the pupil enrolled in these classes or courses. Existing federal law, known as Title IX, prohibits a person, on the basis of sex, from being excluded from participation in, being denied the~~

benefits of, or being subject to, discrimination under any education program or activity receiving federal financial assistance.

An article of existing law, entitled “Athletes’ Bill of Rights,” requires the State Department of Education to post on its Internet Web site, in both English and Spanish and at a reading level that may be comprehended by pupils in high school, the information set forth in the federal regulations implementing Title IX. This existing article also enumerates the rights available to a pupil relating to gender equity in athletics.

This bill would change the title of the existing article referenced above to “Gender Equity in Education.”

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6253.5 of the Government Code is
2 amended to read:
3 6253.5. (a) Notwithstanding Sections 6252 and 6253, and
4 except as provided by subdivision (d), statewide, county, city, and
5 district initiative, referendum, and recall petitions, petitions
6 circulated pursuant to Section 5091 of the Education Code,
7 petitions for the reorganization of school districts submitted
8 pursuant to Article 1 (commencing with Section 35700) of Chapter
9 4 of Part 21 of the Education Code, petitions for the reorganization
10 of community college districts submitted pursuant to Part 46
11 (commencing with Section 74000) of the Education Code and all
12 memoranda prepared by the county elections officials in the
13 examination of the petitions indicating which registered voters
14 have signed particular petitions shall not be deemed to be public
15 records and shall not be open to inspection except by the public
16 officer or public employees who have the duty of receiving,
17 ~~examining~~ *examining*, or preserving the petitions or who are
18 responsible for the preparation of that memoranda and, if the
19 petition is found to be insufficient, by the proponents of the petition
20 and the representatives of the proponents as may be designated by
21 the proponents in writing in order to determine which signatures
22 were disqualified and the reasons ~~therefor~~ *for disqualification*.
23 However, the Attorney General, the Secretary of State, the Fair
24 Political Practices Commission, a district attorney, a school district

1 or a community college district attorney, and a city attorney shall
 2 be permitted to examine the material upon approval of the
 3 appropriate superior court.

4 ~~H~~

5 (b) If the proponents of a petition are permitted to examine the
 6 petition and memoranda, the examination shall commence not
 7 later than 21 days after *the date of* certification of insufficiency.

8 (a)

9 (c) As used in this section, ~~“petition” shall mean section:~~

10 (1) *“Petition” means* any petition to which a registered voter
 11 has affixed his or her signature.

12 ~~(b) As used in this section “proponents of the petition”~~

13 (2) *“Proponents of the petition” means* the following:

14 ~~(1)~~

15 (A) For statewide initiative and referendum measures, the person
 16 or persons who submit a draft of a petition proposing the measure
 17 to the Attorney General with a request that he or she prepare a title
 18 and summary of the chief purpose and points of the proposed
 19 measure.

20 ~~(2)~~

21 (B) For other initiative and referenda on measures, the person
 22 or persons who publish a notice of intention to circulate petitions,
 23 or, where publication is not required, who file petitions with the
 24 elections official.

25 ~~(3)~~

26 (C) For recall measures, the person or persons defined in Section
 27 343 of the Elections Code.

28 ~~(4)~~

29 (D) For petitions circulated pursuant to Section 5091 of the
 30 Education Code, the person or persons having charge of the petition
 31 who submit the petition to the county superintendent of schools.

32 ~~(5)~~

33 (E) For petitions circulated pursuant to Article 1 (commencing
 34 with Section 35700) of Chapter 4 of Part 21 *of Division 3 of Title*
 35 *2 of the Education Code*, the person or persons designated as chief
 36 petitioners under Section 35701 of the Education Code.

37 ~~(6)~~

38 (F) For petitions circulated pursuant to Part 46 (commencing
 39 with Section 74000) *of Division 7 of Title 3 of the Education Code*,

1 the person or persons designated as chief petitioners under Sections
2 74102, 74133, and 74152 of the Education Code.

3 *(d) This section does not apply to petitions for statewide*
4 *initiative measures that the Attorney General has determined, in*
5 *accordance with subdivision (b) of Section 9004 of the Elections*
6 *Code, would likely result in a violation of an individual's*
7 *constitutional rights.*

8 *SEC. 2. Section 9004 of the Elections Code is amended to read:*

9 9004. (a) Upon receipt of the text of a proposed initiative
10 measure, and after the public review period provided for in Section
11 9002, the Attorney General shall prepare a circulating title and
12 summary of the chief purposes and points of the proposed measure.
13 The circulating title and summary shall not exceed 100 words. The
14 Attorney General shall also provide a unique numeric identifier
15 for each proposed initiative measure. The circulating title and
16 summary shall be prepared in the manner provided for the
17 preparation of ballot titles and summaries in Article 5 (commencing
18 with Section 9050), the provisions of which, in regard to the
19 preparation, filing, and settlement of ballot titles and summaries,
20 are applicable to the circulating title and summary.

21 *(b) If, during his or her preparation of the circulating title and*
22 *summary for a proposed initiative measure, the Attorney General*
23 *determines that the measure would likely result in a violation of*
24 *an individual's constitutional rights, he or she shall include the*
25 *following statement in the circulating title and summary:*

26 ~~(b)~~

27 *“The Attorney General has determined that this initiative*
28 *measure, if approved by the voters, would likely result in a*
29 *violation of an individual's rights under the United States*
30 *Constitution or the California Constitution.”*

31 (c) The Attorney General shall provide a copy of the circulating
32 title and summary and its unique numeric identifier to the
33 proponents and to the Secretary of State within 15 days after receipt
34 of the fiscal estimate or opinion prepared by the Department of
35 Finance and the Legislative Analyst pursuant to Section 9005. The
36 date the copy is delivered or mailed to the proponents is the
37 “official summary date.”

38 ~~(e)~~

39 (d) Upon receipt of the circulating title and summary from the
40 Attorney General, the Secretary of State shall, within one business

1 day, notify the proponents and county elections official of each
2 county of the official summary date and provide a copy of the
3 circulating title and summary to each county elections official.
4 This notification shall also include a complete schedule showing
5 the maximum filing deadline, and the certification deadline by the
6 counties to the Secretary of State.

7 *SEC. 3. Section 9008.5 is added to the Elections Code, to read:*

8 *9008.5. A proposed initiative measure that the Attorney General*
9 *has determined, in accordance with subdivision (b) of Section*
10 *9004, would likely result in a violation of an individual's*
11 *constitutional rights shall, prior to circulation, have placed across*
12 *the top of the petition in 16-point or larger roman boldface type,*
13 *all of the following:*

14 *(a) The Attorney General's unique numeric identifier placed*
15 *before the circulating title and summary upon each page where*
16 *the circulating title and summary is to appear.*

17 *(b) The circulating title and summary prepared by the Attorney*
18 *General upon each page of the petition on which signatures are*
19 *to appear.*

20 *(c) The circulating title and summary prepared by the Attorney*
21 *General upon each section of the petition preceding the text of the*
22 *measure.*

23 *(d) The circulating title and summary prepared by the Attorney*
24 *General as required by subdivision (c) shall be preceded by the*
25 *following statement: "Initiative measure to be submitted directly*
26 *to the voters. This petition, including information provided by*
27 *signatories to the petition, is subject to the California Public*
28 *Records Act."*

29 *SEC. 4. Section 18650 of the Elections Code is repealed.*

30 ~~18650. No one shall knowingly or willfully permit the list of~~
31 ~~signatures on an initiative, referendum, or recall petition to be used~~
32 ~~for any purpose other than qualification of the initiative or~~
33 ~~referendum measure or recall question for the ballot, except as~~
34 ~~provided in Section 6253.5 of the Government Code. Violation of~~
35 ~~this section is a misdemeanor.~~

36 *SEC. 5. The Legislature finds and declares that Section 1 of*
37 *this act, which amends Section 6253.5 of the Government Code,*
38 *further, within the meaning of paragraph (7) of subdivision (b)*
39 *of Section 3 of Article I of the California Constitution, the purposes*
40 *of that constitutional section as it relates to the right of public*

1 access to the meetings of local public bodies or the writings of
2 local public officials and local agencies. Pursuant to paragraph
3 (7) of subdivision (b) of Section 3 of Article I of the California
4 Constitution, the Legislature makes the following findings:

5 Access to information concerning proposed measures to be
6 submitted directly to the voters related to the people’s business is
7 a fundamental and necessary right of every person in this state,
8 and serves to preserve the integrity of the electoral process by
9 combating fraud and fostering government transparency and
10 accountability.

11 SEC. 6. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district under this act would result from a legislative mandate that
15 is within the scope of paragraph (7) of subdivision (b) of Section
16 3 of Article I of the California Constitution.

17 SECTION 1. ~~The heading of Article 10 (commencing with~~
18 ~~Section 270) of Chapter 2 of Part 1 of Division 1 of Title 1 of the~~
19 ~~Education Code is amended to read:~~

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21
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Article 10. Gender Equity in Education